



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,970	12/30/2003	Shankar Ramamurthy	49218.1100	8815

7590

09/20/2006

J. Rick Tache, Esq.
Snell & Wilmer L.L.P.
On Arizona Center
400 E. Van Buren
Phoenix, AZ 85004-2202

EXAMINER

TRAN, MAI T

ART UNIT

PAPER NUMBER

2129

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/748,970		RAMAMURTHY ET AL.	
	Examiner		Art Unit	
	Mai T. Tran		2129	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on March 10, 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-28 and 30-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-28 and 30-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 0206 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

REMARKS

Applicants' amendment dated July 10, 2006 responding to the March 10, 2006 Office Action provided in the rejection of claims 1-39, wherein claims 1-2, 4-6, 9, 12, 15-25, 28, 30-39 have been amended. Claims 10-11 and 29 have been canceled. Claims 1-9, 12-28, and 30-39 remain pending in the application and which have been fully considered by the examiner.

The Examiner withdraws the objection to the specification corresponding to Applicants' amendment.

The Examiner withdraws the objection to claim 33 for the minor informalities corresponding to Applicants' amendment.

The Examiner withdraws the rejection to claim 1-39 under 35 USC § 112, the rejection to claims 1-39 under 35 USC § 101 corresponding to Applicants' amendment.

DRAWINGS

The drawings are objected to because of the minor informalities:

- Figure 5A:
- ❖ Reference character 194d: the question should be "May I help you?"

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

CLAIM REJECTIONS - 35 USC § 112

Claim **21** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claim 21, the claimed “is marked so that at least one manual action and at least one computer-based action can be synchronized” is new, because the instant disclosure fails to specify the mechanism or modules to perform the claimed operation.

CLAIM REJECTIONS - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2129

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-5, 7-9, 12-13, 15-18, 20-25, 27-28, 30-36, and 38-39 are rejected under 35

U.S.C. 102(b) as being anticipated by Bullwinkel et al (U. S. Patent No. 6,099,317).

Claim 1

Bullwinkel teaches a method for modeling a business process, comprising the steps of:

remotely capturing an action of a user in performing said business process wherein said action is selected from the group of manual action, computer-based action, and combinations thereof (col. 2, lines 63-67, col. 3, lines 1-3);

storing said captured action in captured data files on a computer (col. 5, lines 12-22);

cataloging said captured data files in accordance with pre-defined process definitions (col. 3, lines 11-13); and

modeling said business process using said captured data files wherein said modeling is selected from the group of designing said business process, improving said business process, executing said business process, and combinations thereof (col.5, lines 12-22).

Claim 2

Bullwinkel teaches a method of business process data collection, comprising the steps of:

automated remote capturing of business process data generated by at least one user's performance of said business process, wherein said capturing includes capture of data generated by at least one action of said at least one user wherein said action is selected from the group of manual action, computer-based action, and combinations thereof (col. 2, lines 63-67, col. 3, lines 1-3);

generating captured process files comprised of said business process data (col. 5, lines 12-22); and

storing said captured process files in a storage (col. 5, lines 12-22).

Claim 4

Bullwinkel teaches a method as claimed in claim 2, wherein said automated remote capturing includes capture of data selected from the group of audio data, video data, and combinations thereof (col. 6, lines 55-65).

Claim 5

Bullwinkel teaches a method as claimed in claim 2, wherein said business process data includes context information (col. 4, lines 61-67).

Claim 7

Bullwinkel teaches a method as claimed in claim 5, wherein said context information includes information from listeners reporting communications between software components and an operating system (col. 4, lines 61-67, col. 5, lines 2-6).

Claim 8

Bullwinkel teaches a method as claimed in claim 5, wherein said context information is derived from virtual footprints in computer software used at least in part to perform the process (col. 6, lines 60-67, col. 7, lines 1-4).

Claim 9

Bullwinkel teaches a method as claimed in claim 8, wherein said virtual footprints include captures selected from the group of dialogs, toolbars, menus, and combinations thereof of a software application on a computer (col. 6, lines 66-67, col. 7, lines 1-4).

Claim 12

Bullwinkel teaches a method for modeling a business process, comprising the steps of:
remotely capturing an action of a user in performing said business process in association with a computer wherein said action is selected from the group of manual action, computer-based action, and combinations thereof (col. 2, lines 63-67, col. 3, lines 1-3);
storing said captured actions in captured data files on a computer (col. 5, lines 12-22);
and
streaming said captured data files to a computer to simulate a user performing the process (col. 6, lines 32-46).

Claim 13

Bullwinkel teaches a method as claimed in claim 12, further comprising the steps of:
editing said captured data files to create edited data files (col. 6, lines 32-46); and
streaming said edited data files to a computer to simulate a user performing an edited process (col. 6, lines 32-46).

Claim 15

Bullwinkel teaches a method for modeling a business process in a business or organization having a plurality of computers connected to a network, comprising the steps of:
defining capture settings of a plurality of users using said plurality of computers (col. 2, lines 1-44);
remotely capturing business process data generated by two or more interactions of at least one user with said plurality of computers according to said capture settings as captured data files (col. 2, lines 1-67); and

storing said captured data files in a repository (col. 5, lines 12-22).

Claim 16

Bullwinkel teaches a method as claimed in claim 15, wherein at least one of said capture settings are different between at least two of said plurality of users using said plurality of computers (col. 2, lines 1-67).

Claim 17

Bullwinkel teaches a method as claimed in claim 16, wherein said difference in said two or more capture settings is distinguished by presence of a recording, said recording selected from the group of audio recording, video recording, and combinations thereof (col. 6, lines 55-65).

Claim 18

Bullwinkel teaches a method for identifying a business process, comprising the steps of:
remotely capturing business process data generated by an actions of a user in performing the process wherein said action is selected from the group of manual action, computer-based action, and combinations thereof (col. 2, lines 63-67, col. 3, lines 1-3);

storing said captured actions in captured data files on a computer (col. 5, lines 12-22);
and

automatically cataloging said captured data files by pattern matching of said captured data files against a pre-defined process (col. 3, lines 11-13, col. 10, lines 21-29).

Claim 20

Bullwinkel teaches a method as claimed in claim 18, wherein said cataloging includes storing at least one of said captured data files as un-cataloged data files (col. 10, lines 21-29).

Claim 21

Bullwinkel teaches a method of business process data collection, comprising the steps of:
automated remote capturing of business process data generated by at least one user's performance of the business process, wherein said capturing includes capture of data generated by at least one action of said at least one user wherein said action is selected from the group of manual action, computer-based action, and combinations thereof (col. 2, lines 63-67, col. 3, lines 1-3);

and wherein said capturing includes data generated selected from the group of audio data, video data, and combinations thereof (col. 6, lines 55-65);

generating captured process files comprised of said business process data wherein said data generated selected from the group of audio data, video data, and combinations thereof is marked so that at least one manual action and at least one computer-based action can be synchronized (col. 5, lines 12-22); and

storing said captured process files in a storage (col. 5, lines 12-22).

Claim 22 is the system version of method claim 1. Therefore, claim 22 is rejected under the same rationale.

Claims 23-25, and 27-28, and 30 are the system version of method claims 2, 4, 5, 7, and 9. Therefore, claims 23-25 and 27-28, and 30 are rejected under the same rationale.

Claims 31-33 are the system version of method claims 12-14. Therefore, claims 31-33 are rejected under the same rationale.

Claims 34-35 are the system version of method claims 15-17. Therefore, claims 34-35 are rejected under the same rationale.

Art Unit: 2129

Claims 36 and 38 are the system version of method claims 18-20. Therefore, claims 36-38 are rejected under the same rationale.

Claim 39 is the system version of method claim 21. Therefore, claim 39 is rejected under the same rationale.

CLAIM REJECTIONS - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

- **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Bullwinkel as applied to claim 2 above, in view of "The Role of XML in Open Hypermedia Systems", by Jacco van Ossenbruggen et al, hereafter Van Ossenbruggen.

Bullwinkel teaches a method of process capture but fails to disclose captured process files are in XML format.

Van Ossenbruggen teaches the use of XML as a data format for structured document interchange on the Web and XML plays an important role in the development of open hypermedia systems (abstract).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the process capture method of Bullwinkel with the XML format of Van Ossenbruggen. The motivation for doing so would be to introduce hypermedia technology into as many applications and components of existing computing environments as possible and to evolve current computing environments into a world-wide, unified hypermedia environment spanning multiple computing platforms (Introduction, lines 2-5).

- **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Bullwinkel as applied to claims 2-5 above, in view of "Data Mining for Imprecise Temporal Associations", by Vincenti et al, hereafter Vincenti.

Bullwinkel teaches a method of process capture but fails to disclose time stamp data.

Vincenti teaches time stamp captured events (page 2, left col., lines 1-16).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the method of modeling a process of Bullwinkel and time stamped captured process files of Vincenti. The motivation for doing so would be to obtain transactions of interest (page 2, left col., lines 1-16).

- **Claim 26** is the system version of method claim 6. Therefore, claim 26 is rejected under the same rationale.
- **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over Bullwinkel as applied to claims 12-13 above, in view of “A Model Driven Methodology for Business Process Engineering”, by Bipin Chadha, hereafter Chadha.

Bullwinkel teaches a method for modeling a process but fail to disclose captured data files constitute an as-is model, edited data files constitute a to-be model, and comparing said as-is model to said to-be model.

Chadha teaches the development of as-is and to-be model (page 3, right col., 1st paragraph, page 4, left col. 2nd paragraph).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the method for modeling a process of Bullwinkel and the development of as-is and to-be model of Chadha. The motivation for doing so would be to support an organization’s migration to effective, agile and efficient processes (page 1, right col., 2nd paragraph), and the to-be process is a radical departure from the old process where problems exist (page 1, left col., 2nd paragraph).

- **Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over Bullwinkel as applied to claim 18 above, in view of "Data Mining for Imprecise Temporal Associations", by Vincenti et al, hereafter Vincenti.

Bullwinkel teaches a method for identifying a process but fails to disclose applying fuzzy logic to captured data files.

Vincenti teaches fuzzy logic to classify captured data files (abstract).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the method for identifying a process of Bullwinkel with applying the fuzzy logic to captured data files of Vincenti. The motivation for doing so would be to help deal with the uncertainty of the boundaries used for classification (page 1, right column, 1st paragraph).

- **Claim 37** is the system version of method claim 19. Therefore, claim 37 is rejected under the same rationale.

RESPONSE TO ARGUMENTS

Applicants' arguments filed have been fully considered but they are not persuasive.

Specifically, applicants argue that:

1. **Rejection under 35 U.S.C. §102**

- *Claim 1: Bullwinkel does not anticipate each and every element of the claim. Bullwinkel is limited to recording events that occur within a single specific software application ... or other manual tasks.*

Bullwinkel is not limited to recording events that occur within a *single* specific software application as Applicants alleged. The citation of the description of related art, para. 2 to support

this rationale is erroneous. The *single* target application was from another U. S. Patent that Bullwinkel disclosed as the disadvantages of prior art.

- *Claim 2, 4-5, and 7-11: Bullwinkel does not teach each and every element contained within the referenced claims. As set forth above with regard to Claim 1, Bullwinkel is limited to recording events that occur within a specific software application, is incapable of recording manual tasks, and is business process unaware.*

Bullwinkel teaches in col. 2 different functions of the APR device to provide the ability to dynamically interact with and monitor arbitrary computer applications. It could be used as employee training tools, or it could be used to interpret events between operating system and target applications. Therefore, Bullwinkel teaches a wide range of applications and does anticipate applicants' invention.

- *Claim 12 and 13: Bullwinkel simulates a working environment so that a user may be trained on the target software application for the APR system has characterized. This simulation still requires a user to perform tasks setup by the APR ... without the user.*

In this argument, Applicants seek to read limitations from the specification into the claims (assumed that limitation was disclosed since applicants have not pointed out where exactly in the specification). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

- *Claim 15-17: Bullwinkel does not teach "defining capture settings of a plurality of users".*

Applicants are redirected to read Bullwinkel in col. 2, col. 5. More than one paragraph describes events, applications being recorded. Therefore, Bullwinkel does teach defining capture settings of a plurality of users.

2. Rejection under 35 U.S.C. §103

- *Claim 3: Bullwinkel does not teach each and every element of the claim. The combination of Ossenbruggen does not cure this deficiency ... no motivation to combine can be inferred.*

Applicants are directed to page 10 above of the Office Action where the teaching or suggestion to make the combination cited is found **within the prior art and not from**

Applicants' disclosure.

On this basis, applicants' argument is found unpersuasive. Therefore, the rejections of the claims STAND.

- *Claim 6 and 26: Bullwinkel does not teach each and every element of claim 6. Combination with Vincenti does not cure this deficiency.*

Applicants are directed to the response above regarding Bullwinkel. Bullwinkel teaches each and every element of claim. On this basis, applicants' argument is found unpersuasive. Therefore, the rejections of the claims STAND.

CONCLUSION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2129

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

M.T.T
Patent Examiner

A handwritten signature in black ink, appearing to read 'David Vincent', with a date '4/18/06' written to its right.

David Vincent
Supervisory Patent Examiner
Tech Center 2100

DAVID VINCENT
SUPERVISORY PATENT EXAMINER